

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-15 and 25 are pending in the application, with claims 1 and 25 being the independent claims. Claims 2-11 have been withdrawn by the Examiner as being directed to a non-elected species. Due to an earlier restriction requirement, claims 16-24, 26 and 27 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 1, 14, 15 and 25 have been amended. Descriptive support for the amendment is found in the specification as filed. The amendment is believed to introduce no new matter, and its entry is respectfully requested.

Claims 1, 12-15 and 25 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1, 12-15 and 25 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the article *Credit Scoring Can Help Home Buyers Qualify for Mortgages, Experts Say*, PR NEWswire ASSOCIATION, INC., Feb. 9, 1998 (hereinafter “the Newswire article”).

Based on the above amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and they be withdrawn.

I. Claims 1, 12-15 and 25 are Directed to Statutory Subject Matter

Claims 1, 12-15 and 25 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Although Applicants disagree with this rejection in light of the Board of Patent Appeals and Interferences’ recent decision in *Ex parte Lundgren*, Applicants have amended claims 1 and 25 where appropriate to address the Examiner’s comments. *See Ex parte Lundgren*, Appeal No. 2003-2088 (BPAI 2005) (holding that there is no judicially recognized “technological arts” test for patentability). Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 12-15 and 25 under 35 U.S.C. § 101.

II. Claims 1, 12-15 and 25 are Patentable Over the Newswire Article

Claims 1, 12-15 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Newswire article. For the following reasons, this rejection is respectfully traversed.

Claim 1 recites “obtaining a current foreign currency exchange rate from a quote source; . . . calculating a modified foreign currency exchange rate quote based on the current foreign currency exchange rate . . . and providing the modified foreign currency exchange rate quote to [a] client.” Similarly, claim 25 recites “means for obtaining a current foreign currency exchange rate from a quote source; . . . means for calculating a modified foreign currency exchange rate quote based on the current foreign currency exchange rate . . . and means for providing the modified foreign currency exchange rate quote to [a] client.”

The Newswire article discloses a method for calculating mortgage rates based on a borrower’s credit score. “[P]ast delinquencies, payment history, current level of indebtedness, length of credit history, and type of credit used” may all taken into account in calculating the borrower’s credit score. Based on the credit score, a lender may then decide to offer the borrower a mortgage with a higher or lower interest rate or more or less favorable terms.

The Newswire article does not disclose or even merely suggest the calculation of a *foreign currency exchange rate* based on a consumer’s information, as recited in independent claims 1 and 25. While the Newswire article may disclose the calculation of a *mortgage rate* based on secondary information about a consumer, the article does not mention the calculation of any currency exchange rates, let alone foreign currency exchange rates based on any secondary information.

The Examiner argues that “it would have been obvious to one of ordinary skill in the art to apply the method as disclosed in the Newswire article for providing foreign exchange rate quote because such method [sic] would provide exchange rates consistent with a measure of the customer’s characteristics which is of significance to the entity offering the foreign exchange rate quote and related financial services.” See Office Action, ¶ 3. However, there is an inherent difference between the calculation of currency exchange rates as recited by the present invention and the calculation of mortgage rates as disclosed by the Newswire article.

As noted by the Newswire article, mortgage lenders may take into consideration a potential borrower's credit score to assess the borrower's willingness to repay a consumer loan. This may provide the lender with a potential degree of risk associated with doing business with the borrower. On the other hand, the present invention relates to a method and apparatus for calculating a currency exchange rate for a client. The present invention eliminates risks to consumers in transactions involving two different currencies because there is no third party interference in obtaining exchange rates. The risk that the present invention seeks to eliminate is a risk to the consumer and not the risk of doing business with the consumer, as with the method of calculating mortgage rates disclosed by the Newswire article.

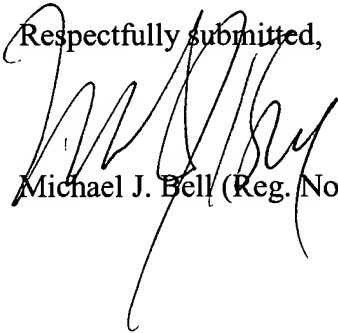
Because the Newswire article fails to disclose or suggest the claimed apparatus including "obtaining a current foreign currency exchange rate from a quote source; . . . calculating a modified foreign currency exchange rate quote based on the current foreign currency exchange rate . . . and providing the modified foreign currency exchange rate quote to [a] client," as recited by claim 1, and "means for obtaining a current foreign currency exchange rate from a quote source; . . . means for calculating a modified foreign currency exchange rate quote based on the current foreign currency exchange rate . . . and means for providing the modified foreign currency exchange rate quote to [a] client," as recited by claim 25, claims 1 and 25 are allowable over the Newswire article. Claims 12-15 depend from claim 1 and are also allowable for at least these reasons. Therefore, the Applicant respectfully requests that the Examiner withdraw the rejection of claims 1, 12-15 and 25 under 35 U.S.C. § 103.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,


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